

REMARKS

The non-final Office Action dated 30 June 2005 has been carefully considered. Reconsideration of this application is respectfully requested in view of the discussion that follows. Claims 1-19 are pending.

Claims 1-5 and 13-19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Schieve, et al. (USPN 5,263,177). Office Action, 30 June 2005, pg. 2. Applicants, however, strongly disagree and respectfully traverse the rejection.

The Examiner is correct in stating that Schieve does not teach a simulcast failure. Applicants have amended the independent claims, namely Claims 1, 14, and 18, to add a limitation to clarify that "detecting" is performed "by at least one of a) receiving a message from the first simulcast station that the first simulcast station has a malfunction and b) not receiving a response when a message is sent to the first simulcast station." Specifically, Schieve does not teach the newly added limitation. Since such a limitation is not taught by the prior art, the rejection of Applicants' claimed invention is improper.

Regarding Claim 4, in addition to the above, Applicants fail to find a teaching to "failing to receive a response to a message" in the cited passage (namely col. 3, lines 14-41 and figure 2). There is no mention of a failed message there or any where in Schieve.

Regarding Claim 5, in addition to the above, Applicants fail to find a teaching to using "timestamp(s) specifying when the data will be transmitted" in the cited passage (namely col. 3, lines 23-41). There is no mention of the usage of "timestamps" there or any where in Schieve.

Regarding Claim 13, in addition to the above, Applicants fail to find a teaching to "malfunction" in the cited passage (namely col. 4, lines 46-51). In Schieve, the base site has full transmit and receive capability and can communicate. The Examiner seems to equate a discussion of "interference" with a malfunction, but in Schieve, the controller chooses not to use a site to minimize "interference" of the system not because the site has a "malfunction."

Based upon this lack of teachings, the Applicants insist that Schieve fails to teach or suggest the invention of the present application as amended. Since Schieve fails to teach or suggest essential limitations of the claimed invention, there is no obviousness under 35 U.S.C. §

103. For these reasons, the Applicants assert that the claims in the present application are not obvious in view of Schieve and may therefore be passed to allowance.

Allowable Subject Matter

Claims 6-12 are objected to as being dependent upon a rejected base claim, but would be allowable is rewritten in independent form including all of the limitations of the base claim and any intervening claims. Further, based upon Applicants' amendments, Claims 1-5 and 13-19 should also be allowable.

Such action is earnestly solicited by the Applicants. In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

Please charge any fees associated herewith, including extension of time fees, to Deposit Account 502117.

Respectfully submitted,

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